WHAT TO EXPECT AT COURT

Final Hearing

What will happen?

Prior to your hearing, we will organise a conversation between you and your barrister either on Zoom,by phone or in-person to discuss what is most important to you and to discuss preparing for the hearing.

On the morning of the hearing, the barristers will typically tell the court that they want to “stand the matter down” to allow time for them to try to negotiate some or all of the matter.

If the matter cannot be resolved and needs to run, the case will proceed in this order:

1. Opening statements will be given first by the Applicant’s barrister, then the Respondent’s barrister, and then by the Independent Children’s Lawyer if one has been involved in the matter.
2. After the opening remarks, the Applicant’s case will begin. The Applicant will get into the witness box and be sworn in, meaning they will be asked their full name, address and date of birth and asked to promise that they will tell the truth to the court.
3. The Applicant’s barrister will then ask the Applicant to confirm that they swore an affidavit and that it is true and correct. Sometimes, if significant new things have occurred since the affidavit was sworn, the Applicant’s barrister will be asked some questions about that.
4. The barrister for the Respondent will then cross-examine the Applicant, which can take many hours, and after that, the barrister for the Independent Children’s Lawyer will cross-examine the Applicant.
5. After the Applicant has given evidence, their witnesses (if any) will be called, and they will go through the same process as the Applicant.
6. After all the Applicant’s witnesses, the Respondent’s case will proceed in the same format.
7. If an Independent Children’s Lawyer is involved, their case will go last, including the family report writer and any other witnesses. Even if there is not an Independent Children’s Lawyer, the family report writer, and any other joint witnesses, such as a valuer, will give evidence last.

Will I need to speak?

Yes, you will need to speak if your case runs, and you need to give evidence.

Will any decisions be made on the day?

The judge will not make a decision during your trial. They will take time to consider the evidence, and their judgement (decision) will be given weeks or months later. The court does endeavor to provide its final judgment within three months of the final hearing date.

What should I wear?

You should wear something you feel comfortable in that looks professional. Think of the kind of thing you might wear to a job interview.

Can I have someone with me?

You are welcome to have one or two support people with you; however, if they are also witnesses in the case, they will not be allowed in the courtroom during the trial until they have given that evidence.

What will the costs be?

We will brief a barrister to appear in court on your behalf. We will also be involved on the day. We will choose a barrister who will suit your case, and we will advise you of their costs. We will need to obtain the barrister's funds into our trust account before the court date, as well as ensure that our own costs are paid to date. We will let you know precisely what we need from you.

If you have any questions during the process, please let us know, as we want to make the experienceas comfortable for you as possible.